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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

Case #: MPA - 177668

PRELIMINARY RECITALS

Pursuant to a petition filed on October 28, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to modify a Medical Assistance (MA) prior authorization request for personal care worker (PCW) services, a hearing was held on December 12, 2016, by telephone. The hearing record was held open an additional five days to allow the provider to submit additional documentation, which was received.

The issue for determination is whether the DHCAA correctly modified a request for PCW services.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED] RN consultant, by written submission only
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Kristin P. Fredrick
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 35-year old resident of Rock County residing with his parents and a recipient of Social Security Disability and State SSI -Medical Assistance.
2. Petitioner is diagnosed with autism and mental retardation. He receives PCW services from provider Accura Home Health to assist him in activities of daily living including bathing, dressing, grooming, eating, toileting and medication assistance.
3. On September 29, 2016 Accura Home Health submitted a Prior Authorization (PA) request for 39 hours (156 units) of weekly PCW services, PA No. [REDACTED]. Attached to the PA was a copy of a Personal Care Screening Tool (PCST) completed by the provider that allocated only 34.5 hours (138 units) of weekly PCW services.
4. On October 17, 2016 the DHCAA modified the PA request to 32.25 hours (129 units) of weekly PCW services.

DISCUSSION

Personal care worker services (PCW) are an MA-covered service, subject to prior authorization. Wis. Admin. Code §DHS 107.112(2). In determining whether to approve PA requests for PCW services, DHCAA employs the generic prior authorization criteria found at Wis. Admin. Code §DHS 107.02(3)(e). Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3. PCW services are defined as “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

The DHCAA utilizes a Personal Care Screening Tool (PCST), a computer program it believes will allow it to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the DHCAA's reviewer can then adjust to account for variables missing from the screening tool's calculations. The Department also uses a Personal Care Activity Time Allocation Table to determine allotted times for PCW tasks, which the DHCAA follows unless the request explains specifically why additional time is necessary. The Table is found at page 2 of Attachment 4 to Nurse Consultant Alward's November 10, 2016, 2016 case summary.

Petitioner contested two modifications to the original request. First, the request asked for 280 minutes per week for dressing. The amount was modified to 140 minutes. The modification was based upon the Department's policy that PCW hours cover only one dressing period per day (ten minutes for upper body and ten minutes for lower body) if the PCW also is bathing the person once per day. Dressing after the bath is considered part of bathing, so the maximum for dressing is 140 minutes per week (a reduction of 2.33 hours of time from the PA request). The provider did not identify in the PCST that the petitioner's behavior's or a medical condition require an increase in or additional PCW time to assist the petitioner in the activities of daily living. The petitioner's mother testified that the petitioner has gingivitis and requires additional time for care of his teeth. The PCST currently allocates the maximum 30 minutes per day for grooming activities. I find that the petitioner failed to present sufficient evidence or testimony to overcome the Department's clear policy.

The DHCAA correctly noted a discrepancy between the hours allocated in the PCST (138 units) and the amount of hours requested in the PA (156 units). The provider was unable to explain the reason for the entire discrepancy, although pointing out that the PCST did not afford time for medication assistance. Although the petitioner's mother asserts that PCW time was not allocated for assisting the petitioner with his prescribed vitamins, that position is refuted by the breakdown of time and allowed PCW services identified at page one of attachment 4 of the Department's summary. Five minutes of daily PCW services were subsequently allocated for the medication assistance.

The petitioner's mother recognized that the amount of PCW hours had decreased since last year. As pointed out by the provider, the petitioner attends day programming five days per week and therefore does not require PCW assistance with eating lunch on those dates. This resulted in a decrease in PCW service hours on top of the decrease in hours identified above for dressing. Based upon the evidence presented, I am not persuaded that the petitioner or provider has demonstrated that the DHCAA's modification to the PA is incorrect.

CONCLUSIONS OF LAW

The DHCAA correctly determined that the petitioner does not require *more* than 32.25 PCW hours (129 units) per week for the one year period beginning October 2, 2016.

THEREFORE, it is

ORDERED

That the petition is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 5th day of January, 2017

\s _____
Kristin P. Fredrick
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 5, 2017.

Division of Health Care Access and Accountability